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December 19, 2024

VIA ECF

Honorable John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Christopher Scott*
23 Cr. 611 (JGK)

Dear Judge Koeltl:

I represent Christopher Scott in the above matter, currently scheduled for sentencing on January 14, 2024. Because the parties disagree on the application of the Sentencing Guidelines to Mr. Scott's case, I write to request a *Fatico* hearing prior to sentencing. The Government does not object to this request.

On September 17, 2024, Mr. Scott pleaded guilty to two counts of 18 U.S.C. § 922(g) pursuant to a *Pimentel* letter. The parties and the Probation Department ("Probation") agree that Mr. Scott has five criminal history points and is thus in Criminal History Category III. The Government's position, as set forth in its *Pimentel* letter, is that Mr. Scott's Total Offense Level should be 30, because the firearm was used in connection with another felony offense, namely, attempted first degree murder. See U.S.S.G. §§ 2K2.1(c)(1), 2X1.1(c), 2A2.1(a)(1). However, Mr. Scott submits that because the Government cannot prove each element of attempted first degree murder by a preponderance of the evidence, the Court should not apply the "cross-reference" to this offense, resulting in a Total Offense Level of 18. In the Presentence Report, Probation agrees with the Government, but in a footnote, calculates a Total Offense Level of 18 as an alternative.

At this time, the parties anticipate that the Government's evidentiary presentation would be brief, likely consisting only of the short surveillance video depicting the relevant incident, which could certainly be provided in advance of the sentencing date. Accordingly, we request that the Court conduct a *Fatico* hearing prior to sentencing. We thank the Court for its time and consideration of this request.


Respectfully Submitted,



Michael D. Bradley
Attorney for Christopher Scott

cc: AUSA James Mandilk (via ECF)
AUSA Meredith Foster (via ECF)

A FATICO HEARING WILL BE
HELD ON TUESDAY, JANUARY 7,
2025, AT 10:30AM.

SO ORDERED.
12/19/24 
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